Henry Schein Medical Systems, Inc.
6715 Tippecanoe Road, Building C, Suite 4C
Canfield, OH 44406

HENRY SCHEIN MEDICAL SYSTEMS, INC.
MICROMD END USER LICENSE AGREEMENT (EULA V.2022b)

In consideration of the mutual promises and covenants set forth herein and for other good and valuable consideration, the parties hereby agree to the following terms and conditions:

1. **LICENSE GRANT.** Subject to all of the terms and conditions of this End User License Agreement ("Agreement"), Henry Schein Medical Systems, Inc. ("HSMS") hereby grants to Client (as identified on an accepted proposal), for the term of this Agreement, and Client hereby accepts from HSMS, a personal, non-exclusive, non-transferable, non-sublicensable, limited license, to use the software product(s) set forth in Schedule A (and all subsequent releases and versions thereof, if any, provided to Client in accordance with this Agreement, as it may be amended, modified or supplemented from time to time, or the accompanying Maintenance Agreement), and all systems programs, applications programs, databases, information, user guides, manuals and documentation related thereto (all the foregoing, collectively, "Software"), solely for Client's internal and proper business purposes (the "Permitted Purpose") and only for the benefit of the location(s) specified in Schedule A ("Site").

2. **TRAINING AND RELATED TERMS.**

   A. Upon execution of this Agreement by Client, Client shall be responsible for contacting HSMS or its authorized agent by telephone or e-mail to complete the installation and training process required to receive an initial authentication key code for purposes of accessing and using the Software.

   B. **CLIENT ASSUMES FULL RESPONSIBILITY FOR THE SELECTION OF THE PRODUCT TO ACHIEVE CLIENT'S INTENDED PURPOSES, FOR THE PROPER INSTALLATION AND USE OF THE SOFTWARE AND FOR VERIFYING THE RESULTS OBTAINED FROM ITS USE. CLIENT HEREBY ACKNOWLEDGES AND AGREES THAT NOTWITHSTANDING ANY REPRESENTATION OR WARRANTY MADE BY HSMS IN THIS AGREEMENT, CLIENT HAS CONFIRMED TO ITS SATISFACTION THAT THE SOFTWARE MEETS CLIENT'S REQUIREMENTS.**

3. **LIMITED WARRANTY; EXCLUSIVE REMEDY.**

   A. HSMS warrants that the functionality of the Software shall materially conform to the description thereof set forth in the published MICROMD SOFTWARE PROGRAMS features list. HSMS also warrants that the functionality available in the Software shall not be reduced significantly from the functionality available in the previous version of the Software.

   B. HSMS warrants that the installation, configuration and training to be performed by HSMS in respect of the Software shall be performed by qualified and certified personnel (i) in a timely, high quality and workmanlike manner; (ii) in conformance with generally acceptable industry standards; and (iii) in compliance with all applicable federal, state and local laws and regulations.

   C. HSMS warrants that after the license granted herein becomes effective, the operation of the Software will materially conform with the operational characteristics set forth in HSMS's online help files, help files included in the Software and published user guides, reference guides and manuals for such Software (the "Documentation"), provided, however, that the foregoing warranty shall not apply to the extent that Client does not operate such Software in accordance with standard operating procedures outlined in such Documentation. HSMS shall not be responsible to provide Client with maintenance or support of any type for the Software unless the Client has executed a Software Maintenance Agreement with HSMS setting forth the terms and conditions under which HSMS agrees to provide such maintenance and support on an annual basis ("Maintenance Agreement"). Notwithstanding any other provision hereof or of the Maintenance Agreement, this Agreement shall not take effect until (i) it is executed by duly authorized representatives of both parties and delivered to HSMS and (ii) the Maintenance Agreement is executed by duly authorized representatives of both parties and delivered to HSMS. In the event that the Maintenance Agreement terminates during the first year of the term of this Agreement, this Agreement shall automatically terminate contemporaneously therewith along with any and all rights granted to Client under this Agreement. After the first year of the term of this Agreement, Client may elect to terminate maintenance and support for the Software in accordance with the terms and conditions of the Maintenance Agreement.

   D. If the Client enters into a sales and/or services agreement for the Software with an HSMS certified third party reseller (a "Certified Reseller") then the guidelines outlined in Schedule B shall apply.

   E. The foregoing warranties in Sections 3.A, B and C shall apply only if *the Software has been installed and configured by HSMS's certified personnel or personnel of a Certified Reseller.* If the Software is installed or configured by any person other than HSMS or a Certified Reseller, Client shall be foreclosed from and hereby expressly waives any rights in connection with any remedy for breach of any of the foregoing warranties.

   F. Client shall be foreclosed from and hereby expressly waives any rights in connection with any remedy for breach of any of the foregoing warranties in this Section 3 to the extent that such breach arises from or relates to (i) modifications, alterations, changes or interfaces of or to the Software by any party other than HSMS; (ii) operation of the Software that is not in accordance with standard operating procedures set forth in the Documentation; (iii) use of the Software (a) for any purpose other than the Permitted Purpose or (b) in a manner not authorized hereunder; (iv) use of any other software or use of the Software in combination with any other software or products; or (v) the operation of a

computer or other equipment that is used in connection with the Software. Notwithstanding the foregoing, nothing herein shall operate, or be construed, to prohibit Client from engaging third parties for purposes of interoperability, subject to HSMS' intellectual property rights.

G. In the event of any failure of the Software to perform in accordance with the applicable warranty set forth in this Section 3, Client's sole and exclusive remedy shall be for HSMS to use its reasonable efforts to correct the Software so that it does comply with the applicable warranty.

H. THE LIMITED WARRANTIES SET FORTH IN THIS SECTION 3 ARE EXCLUSIVE AND IN LIEU OF, AND HSMS HEREBY DISCLAIMS AND CLIENT HEREBY WAIVES, ALL OTHER REPRESENTATIONS, WARRANTIES AND GUARANTEES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF THE SOFTWARE FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, DATA ACCURACY, SYSTEM INTEGRATION OR QUIET ENJOYMENT AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR COURSE OF PERFORMANCE. CLIENT EXPRESSLY ACKNOWLEDGES THAT, BECAUSE OF THE COMPLEX NATURE OF COMPUTER SOFTWARE, HSMS CANNOT AND DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE WITHOUT INTERRUPTION OR ERROR-FREE. NO HSMS EMPLOYEE, AGENT, CERTIFIED RESELLER OR PERSONNEL OF A CERTIFIED RESELLER IS AUTHORIZED TO MAKE ANY EXPANSION, MODIFICATION OR ADDITION TO THIS LIMITATION AND EXCLUSION OF WARRANTIES IN THIS AGREEMENT.

I. While reasonable efforts are made to provide for the accuracy and reliability of any medical information or advice for patients provided through the Software ("Patient Forms or Instructions"), Client acknowledges that HSMS makes no representations, warranties or guarantees, express or implied, regarding the accuracy, readability, translation or conformance to any standards of medical practice of any such Patient Forms or Instructions. Client is responsible for determining the correctness and appropriateness of the content of each and every patient document or form generated by the Software based on the medical condition and needs of such patient and for making additions or corrections to Patient Forms or Instructions as needed.

4. **OWNERSHIP.** Client acknowledges and agrees that, as between Client and HSMS, HSMS owns and shall continue to own all right, title and interest, including, but not limited to all rights in inventions, discoveries and works of authorship and all patent, trademark, copyright, trade secret, moral and other intellectual property rights related thereto (collectively, "Intellectual Property Rights"), in and to the Software and all modifications, improvements and derivative works thereof (collectively, "Modifications") and all source code and object code related to any or all of the foregoing (collectively, "Code" and, together with the Software, Modifications and Confidential Information [as defined below], the "HSMS Property") and Client shall not have any right, title or interest in or to the HSMS Property except as expressly provided herein. In the event that, by operation of law or otherwise, any right, title or interest in or to the HSMS Property, or any portion thereof, shall vest in Client or its employees, directors, officers, agents or other representatives (collectively, "Client Representatives") and not in HSMS, Client hereby irrevocably, unconditionally and without encumbrance of any kind transfers and assigns to HSMS any such right, title or interest and agrees to do, or cause Client Representatives to do, all other acts reasonably necessary to perfect HSMS's ownership thereof, without any additional consideration of any kind. Without limiting the foregoing, Client acknowledges and agrees that each and every Client Representative who accesses or uses any HSMS Property, or to whom any HSMS Property is disclosed, as required in the exercise of Client's rights under the license granted herein shall, prior to such access or disclosure, execute written agreements with Client (i) that impose on each such Client Representative obligations and use restrictions with respect to HSMS Property that are at least as stringent as those imposed on Client hereunder and (ii) wherein each such Client Representative assigns to Client and waives and agrees never to assert any and all right, title and interest in and to all subject matter conceived, created, or reduced to practice by such Client Representatives, including any Intellectual Property Rights, that arises out of or relates to such Client Representatives' access to or knowledge of the HSMS Property. Notwithstanding the foregoing, any intellectual property that Client may obtain as a result of interoperability interfaces developed by a third party contracting with Client shall not be subject to the mandatory transfer and assignment to HSMS referenced herein, but may be subject to other claims or rights of HSMS, including cross-licensing negotiations. In the event that Client (solely in connection with the Permitted Purpose) utilizes the "Clinical Template Customizations" feature of the Software, or other such features within the Software, to prepare customized forms or data entry screens that do not require or result in any modification to or enhancement of the Code or other HSMS Property (collectively, along with all modifications and enhancements thereto, the "Clinical Template Customizations"), Client shall own all right, title and interest in and to such Clinical Template Customizations; provided, however, that Client shall and hereby does grant HSMS a non-exclusive, transferable, sub-licensable, perpetual, irrevocable, royalty-free, fully-paid-up license to use and modify the Clinical Template Customizations for any purpose.

5. **LICENSE RESTRICTIONS; CONFIDENTIALITY.**

A. Except as necessary to exercise its rights under the license granted in herein, and except as set out below with respect to the 21st Century Cures Act (the "Cures Act"), Client shall not, and shall not permit anyone else to, copy, duplicate, display or reproduce, in whole or in part, the HSMS Property, whether in the form of computer media, printed or in any other form. Client shall not, and shall not permit anyone else to, sell, license or otherwise distribute or provide, directly or indirectly, any of the HSMS Property or any portion or component thereof to any third party. Except with respect to the Clinical Template Customizations, Client shall not, and shall not permit anyone else to, modify, alter, reverse compile, decompile, disassemble, reverse engineer or perform any similar type of operation on, or make or distribute any other form of, or any derivative work or compilation from the HSMS Property. Client shall not use the HSMS Property for any purpose other than the Permitted Purpose or at any location other than at the Site without the prior written consent of HSMS. Notwithstanding the foregoing, nothing in this Section shall operate to prohibit Client from engaging third parties for interface and interoperability purposes, subject to HSMS' intellectual property rights.

B. Client shall treat as confidential and shall not disclose or reveal any of the HSMS Property or any product pricing (other than fees with respect to enhancement of interoperability), trade secrets (including object code, source code, formula(e), proprietary algorithms, data schema, patterns, compilations, programs, devices, methods, techniques and/or processes) or other proprietary data or information related thereto (the "Confidential Information"), in any form to any person without the prior written consent of HSMS, except that Client may disclose the Software and Confidential Information to its employees solely for the Permitted Purpose and only for use at the Site. In addition, non-user-facing

aspects of HSMS applications, i.e., those not readily apparent to a user, such as source and object code, software documentation, design specifications, flowcharts and file and data formats) are confidential and may not be shared or disclosed. Client shall take all necessary steps to cause Client's employees who are permitted access to the HSMS Property to adhere to Client's confidentiality obligations and use restrictions with respect to the HSMS Property as set forth herein. Client shall be responsible to HSMS for any act or failure to act by any Client Representative that would constitute a breach of any duty, obligation, agreement, covenant, warranty or representation of Client hereunder if such act or failure to act was committed by Client. Notwithstanding the foregoing, nothing in this Section shall prohibit Client from making communications described in CFR 170.403(a)(1) and CFR 170.403(a)(2)(i), nor shall it operate to prohibit Client from engaging third parties for interface and interoperability purposes, subject to HSMS intellectual property rights, nor to prohibit Client from complying with the regulations implementing the Cures Act with respect to utilization of screenshots or video, as stated within those regulations.

C. Notwithstanding anything to the contrary (including in any other agreement Client has entered into with HSMS), as long as HSMS remains subject to 45 CFR 170 as a developer of certified health information technology, Client is permitted to make certain communications about HSMS's certified applications, in accordance with Section 4002 of the Cures Act and 45 CFR 170.403 (the "Communications Rule"). Client recognizes that HSMS needs to avoid outright copying of its intellectual property by third parties to remain viable as a company. To help support this, Client shall ensure that any communications involving HSMS Confidential Information are within the scope of the protected subject areas in the Communications Rule, and that each such communication uses the least amount of HSMS Confidential Information necessary to fulfill its purpose. HSMS does not prohibit or restrict any communication regarding usability, interoperability, security, user experiences, business practices related to exchanging electronic health information or how a user of HSMS health information technology used such technology unless such prohibition or restriction is permitted under CFR § 170.403(a)(2)(ii). HSMS does not prohibit communication of any information whatsoever when the communication is about one or more of the subject matters listed in CFR § 170.403(a)(1) and is made for any of the following purposes: making a disclosure required by law; communicating information about adverse events, hazards and other unsafe conditions to government agencies, health care accreditation organizations and patient safety organizations; communicating information about cybersecurity threats and incidents to government agencies; communicating information about information blocking and other unlawful practices to government agencies; or communicating information about any failure to comply with a Condition of Certification requirement under the Cures Act.

D. Notwithstanding the confidentiality requirements hereof, use of screenshots or video of any certified HSMS applications (i.e., those that come within the purview of the Cures Act) must be in accordance with the guidelines established by the Cures Act and its implementing regulations. In particular, if a communication is in reference to a certified application, and the communication requires use of screenshots or video (for purposes of clarity, video may be used only if the subject of the communication is a temporal matter and the communication cannot be accomplished via use of screenshots or another method), it must not alter the screenshots or video (other than to annotate or resize them); only the minimum number of screenshots necessary to make the communication may be used; and video clips must be of the shortest duration needed to communicate the message.

E. HSMS reserves the right to periodically verify, either directly or through its authorized agent, provider and/or concurrent user information of the Software Products identified in Schedule A. If Client's use of the Software Products is inconsistent with what Client has paid for, such unauthorized use shall constitute a violation of the license granted herein. Client may be required to compensate HSMS and its authorized agent for the prior unauthorized use of the Software by making retroactive payments for such unauthorized use. The Client will be required to make future payments to HSMS and its authorized agent for all verified provider and/or concurrent user information in accordance with the fees outlined by the HSMS Pricing Index.

6. TERM AND TERMINATION.

A. This Agreement shall be effective as of the date Client accepts the purchase proposal ("Effective Date") until terminated.

B. Notwithstanding the provisions of Section 6.A hereof, in the event Client (i) defaults in the performance of any other of its duties or obligations or breaches any of its agreements, covenants, warranties or representations under this Agreement, (ii) assigns this Agreement in contravention of the provisions hereof, (iii) voluntarily or involuntarily becomes subject to any action or proceeding in connection with federal or state bankruptcy laws, rules or regulations, including the Bankruptcy Act or similar laws, or become insolvent, or if any substantial part of Client's property becomes subject to any levy, seizure, assignment, application or sale for or by any creditor or governmental agency, then HSMS, at its option, may, upon written notice thereof, (a) terminate this Agreement and the license and all other rights granted to Client hereunder (b) require that Client (and Client agrees that it will), at its expense and in accordance with the instructions provided by HSMS, return all originals and copies (in whatever medium) of HSMS Property (and all worksheets, documentation, computer program media, CDs and similar materials relating thereto) in the possession, custody, or control of Client or Client Representatives, including any and all of the foregoing that are resident in computer memory, with a certificate to that effect issued by an officer of Client; and (d) retain all prior payments made by Client to HSMS or its authorized agent hereunder.

C. Client agrees to reimburse HSMS or its authorized agent for any costs incurred as a result of any collection activity, including reasonable attorneys' fees and court costs, unless otherwise prohibited by law. The remedies contained in this Section 6 are cumulative and in addition to all other rights and remedies available to HSMS under this Agreement, by operation of law, in equity or otherwise.

D. The provisions of this Section 6 and Sections 4, 5, 8, 9 and 12.J shall survive any termination or expiration of this Agreement.

E. Upon any termination or expiration of this Agreement, HSMS or its authorized agent agrees to provide Client with read-only and print-only access to certain data incorporated in the Software, but only to the extent required to comply with the Health Insurance Portability and Accountability Act of 1996, as amended from time to time, the Health Information Technology for Economic and Clinical Health Act set forth within P.L. 111-5, the Cures Act, and all relevant regulations promulgated thereunder, as amended from time to time (collectively referred to herein as "HIPAA") or other applicable laws. This data may be provided on a media format for utilization as an import to another program or

application. Time and fees for HSMS or its authorized agent to provide this data will be assessed by HSMS or its authorized agent at the time of termination or expiration of this Agreement, unless prohibited by applicable law.

7. **DELIVERY, INSTALLATION AND RELATED ACTIVITIES.**

A. Within 10 business days after this Agreement is mutually accepted by both Client and HSMS, the license granted to Client hereunder shall become effective and HSMS or its authorized agent shall deliver the Software to Client via access codes to download the Software by means of a designated site or via another mutually agreeable medium. Client shall be solely responsible for providing and maintaining at its own expense a remote access portal for the sole purpose of permitting HSMS or its authorized agent to support the Software, monitor the operation of such Software and update such Software to the extent such updates are provided to Client pursuant to the Maintenance Agreement, all in accordance with HSMS's normal and customary maintenance and support procedures for the Software. Such remote portal access shall be made available and remain open on a daily schedule that shall be provided to HSMS's or its authorized agent's Technical Support department solely for this purpose. If Client reports to HSMS or its authorized agent an issue that requires remote access to the Software as described herein Client's denial of remote access shall constitute a material breach of this Agreement and HSMS may terminate this Agreement upon written notice to Client and Client's failure to restore such access within 10 days after receiving such notice.

B. Client shall be solely responsible for providing and maintaining the operating environment in which the Software will function and the overall effectiveness and efficiency thereof, including all equipment, hardware and other devices and all site preparation, installation, integration, testing and similar activities required for Client to use the Software in accordance with the provisions hereof, and HSMS shall assume no such responsibilities unless those responsibilities have been agreed to in writing by an amendment to this Agreement in accordance with Section 12.B. Upon delivery of the Software to Client, except for HSMS's warranty obligations set forth in Section 3 hereof or as otherwise expressly set forth herein, HSMS shall have no further liability or responsibility to Client with respect to the Software, Client's use thereof, or any Client data, records, documents or other information or materials used or generated by Client in connection therewith.

8. **INDEMNIFICATION.**

A. In the event of a determination by a court or other tribunal of competent jurisdiction that the Software or Client's use thereof in accordance with the terms and conditions hereof infringes or misappropriates the Intellectual Property Rights of a third party and, as a result of such determination, Client is enjoined from using the Software, HSMS shall have the option, at its own expense and in its sole and exclusive discretion, to (i) obtain for Client the right to continue using the Software in accordance with the terms and conditions hereof; (ii) replace or modify the Software or infringing portion thereof so that it no longer infringes; or (iii) terminate the license and other rights granted to Client hereunder without further liability to Client hereunder.

B. HSMS shall indemnify, defend and hold Client harmless from and against any and all liability, damages, loss or expense, including reasonable attorney fees (collectively, "Losses") arising from any claim, demand, suit, action or proceeding (collectively, "Claims") initiated by a third party based upon infringement or misappropriation of such third party's Intellectual Property Rights resulting from the Software or Client's use thereof in accordance with the terms and conditions hereof; provided, however, that, as a condition of HSMS's obligations in this Section 8.B taking effect, (i) Client shall promptly notify HSMS of any threat or initiation of any such Claim to which such obligations apply; (ii) Client shall assist HSMS upon the request of HSMS in the defense or settlement of such Claim; and (iii) HSMS shall have complete control over any such defense or settlement. In addition, HSMS's obligations under this Section 8.B shall not apply to any Losses or Claims arising out of or relating to (a) any use or operation of the Software that is not in accordance with the terms and conditions hereof, including use or operation for any purpose other than the Permitted Purpose or at any location other than the Site or any use of operation that is not in accordance with standard operating procedures set forth in the Documentation or (b) any modifications, alterations, changes or interfaces of or to the Software by any party other than HSMS, or any use or operation of the Software in combination with any other software or any other products or devices.

C. Client shall indemnify, defend and hold harmless HSMS and its respective officers, directors, employees, agents and other representatives from and against all Claims and Losses arising out of or relating to (i) Client's use or operation of the HSMS Property, or reliance on the Patient Forms or Instructions, drug information or clinical knowledge base included therein, except to the extent of any Claims and Losses to which HSMS's obligations in Section 8.B shall apply; (ii) Client's or any Client Representative's breach of any term or condition hereof; (iii) any negligent act or omission or intentional misconduct of Client or its officers, directors, employees, agents or other representatives; (iv) Client's or any Client Representative's or any third party's modification, alteration, or addition of interfaces to the HSMS Property to the extent the same gives rise to claims of infringement or interferes with or degrades the performance of the HSMS Property; or (v) Client's or any Client Representative's creation, conception, reduction to practice, development, reproduction, distribution, preparation, use or sale of Clinical Template Customizations, including but not limited to in connection with any infringement, misappropriation, dilution or other violation of the Intellectual Property Rights of any third party.

9. **LIMITATION OF LIABILITY.**

A. IN NO EVENT SHALL HSMS BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO, PATIENT SAFETY, INCORRECT DATA ENTRY, LOSS OF DATA, LOST PROFITS, LOST REVENUE, LOST SAVINGS, LOSS OF USE OF THE SOFTWARE, BUSINESS INTERRUPTION OR COST OF SUBSTITUTED FACILITIES, EQUIPMENT OR SERVICES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF HSMS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER ANY CLAIM FOR RECOVERY THEREOF IS BASED ON THEORIES OF CONTRACT, NEGLIGENCE, TORT (INCLUDING STRICT LIABILITY) OR OTHERWISE. IN NO EVENT SHALL HSMS'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL LICENSE FEE PAID BY CLIENT HEREUNDER. CLIENT ACKNOWLEDGES THAT HSMS HAS SET ITS RESPECTIVE LICENSE FEES AND OTHER PRICES RELATING TO THE SOFTWARE IN RELIANCE

ON THE DISCLAIMERS OF WARRANTY AND LIMITATIONS AND EXCLUSIONS OF LIABILITY SET FORTH HEREIN AND THAT THOSE PROVISIONS FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

B.   HSMS shall not be liable or deemed to be in default for any delay or failure to perform under this Agreement resulting directly or indirectly from any cause beyond the reasonable control of HSMS or any breach by Client or any Client Representative of this Agreement.

10. **HEALTH INFORMATION.** HSMS warrants that the Software provided under this Agreement will operate in compliance with 45 CFR Parts 160 and 162 (Health Insurance Reform: Standards for Electronic Transactions) promulgated under HIPAA and any related regulations to the extent such are applicable. Without limiting the other provisions of this Agreement, HSMS agrees to comply with the provisions of the HIPAA Business Associate Agreement between the parties, which is deemed incorporated herein by reference and made a part hereof.

11. **THIRD PARTY PRODUCTS.**

A.   HSMS distributes certain third party hardware, software, supplies and/or services which Client may acquire from HSMS or elsewhere with or without HSMS's help in identification, evaluation or selection, ("Third Party Products") including, but not limited to, those Third Party Products listed at https://www.micromd.com/library/Content/legal/third-party.htm HSMS PROVIDES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THIRD PARTY PRODUCTS, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. The sole warranty for Third Party Products purchased through HSMS is the warranty, if any, offered by the third party manufacturer. Client acknowledges that it may be required to enter into a license or other agreement with the manufacturer of such Third Party Products.

B.   UNLESS OTHERWISE SPECIFICALLY AGREED TO IN WRITING BY HSMS, HSMS IS NOT RESPONSIBLE FOR, AND EXPRESSLY DISCLAIMS ANY LIABILITY FOR, THE PERFORMANCE, QUALITY OR RELIABILITY OF THIRD PARTY PRODUCTS, OR CLIENT'S CHOICE OF A PARTICULAR MANUFACTURER FROM WHICH TO PURCHASE THIRD PARTY PRODUCTS, AND NO CLAIM CLIENT MAY HAVE WITH RESPECT TO THIRD PARTY PRODUCTS PURCHASED FROM HSMS SHALL AFFECT CLIENT'S OBLIGATIONS (INCLUDING, WITHOUT LIMITATION, CLIENT'S PAYMENT OBLIGATIONS) TO HSMS FOR THE SOFTWARE OR SUPPORT, MAINTENANCE AND OTHER SERVICES, INCLUDING PROFESSIONAL SERVICES, FURNISHED BY HSMS TO CLIENT. CLIENT ACKNOWLEDGES THAT ANY CLAIMS IT MAY HAVE IN CONNECTION WITH THIRD PARTY PRODUCTS, AND ANY REMEDIES FOR SUCH CLAIMS, SHALL BE BROUGHT SOLELY AGAINST, OR SOUGHT SOLELY FROM, THE MANUFACTURERS OF SUCH THIRD PARTY PRODUCTS AND NOT HSMS.

C.   The Software may incorporate, access, or otherwise contain certain Ingenix, Inc. ("Ingenix") products, including, without limitation, CPT codes (the "Ingenix Products") pursuant to a license agreement between HSMS and Ingenix. If the Software contains Ingenix Products then the following provisions apply:

   i.   <u>Client License Grant</u>. Client is hereby granted a nontransferable, nonexclusive right to use the publication developed by the American Medical Association ("AMA") titled Current Procedural Terminology as well as *CPT® Assistant* and *CPT® Changes* (collectively referred to herein as "CPT"), in the United States, at Client's Site solely as part of the Software and solely for the Permitted Purpose.

   ii.   <u>Warranty</u>. OTHER THAN A LIMITED WARRANTY THAT THE INGENIX PRODUCTS WILL PERFORM IN ACCORDANCE WITH END USER DOCUMENTATION FOR SUCH PRODUCTS, THE INGENIX PRODUCTS AND THE CPT ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED. CLIENT BEARS ALL RISK RELATING TO QUALITY, ACCURACY AND PERFORMANCE OF THE CPT.

   iii.   <u>Limitation of Liability</u>. IN NO EVENT WILL HSMS, INGENIX OR THE AMA BE LIABLE FOR ANY, INCIDENTAL, SPECIAL, CONSEQUENTIAL PUNITIVE OR EXEMPLARY DAMAGES, ARISING OUT OF THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE INGENIX PRODUCTS OR THE CPT, EVEN IF HSMS, INGENIX OR THE AMA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY SHALL APPLY TO ANY CLAIM OR CAUSE WHATSOEVER WHETHER SUCH CLAIM OR CAUSE IS IN CONTRACT, TORT OR OTHERWISE. IN NO EVENT SHALL INGENIX'S AND AMA'S TOTAL LIABILITY FOR ANY DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE LICENSE FEES PAID FOR CLIENT'S RIGHT TO USE THE SOFTWARE IN THE YEAR IN WHICH THE CAUSE OF ACTION AROSE.

   iv.   <u>Ownership of Intellectual Property</u>. Client acknowledges and agrees that the AMA owns all copyrights in the CPT and that the CPT is a registered trademark of the AMA.

   v.   <u>Third Party Beneficiary</u>. Ingenix and AMA are direct and intended third party beneficiaries of HSMS's rights under this Agreement with respect to the provisions herein as they relate to the Ingenix Products or CPT. Ingenix and AMA shall be entitled to enforce their rights pursuant to the provisions of this Agreement as they relate to Ingenix Products, regardless of any alleged or actual breach or default hereunder by HSMS, or any expiration or termination of this Agreement.

vi.   <u>Confidentiality</u>. Client may disclose the Ingenix Products only to the extent required or permitted by law, and in such case only after prompt written notice to Ingenix allowing it the opportunity to interpose all objections to the proposed disclosure.

vii.   <u>Updates and Upgrades</u>. Client's right to future updates to the CPT for use in the Ingenix Products is dependent on a continuing contractual relationship between Ingenix and the AMA and HSMS and Ingenix.

viii.   <u>Copies</u>. Client may make copies of the CPT solely for backup or archival purposes. All notices of proprietary rights, including trademark and copyright notices, must appear on all such copies. At termination of this Agreement, Client shall discontinue use of the Ingenix Products and destroy or return to HSMS the Ingenix Products and all such copies thereof.

ix.   <u>U.S. Government Rights</u>. *This product includes CPT® and/or CPT® Changes which is commercial technical data and/or computer data bases and/or commercial computer software and/or commercial computer software documentation, as applicable which were developed exclusively at private expense by the American Medical Association, 515 North State Street, Chicago, Illinois, 60610. U.S. Government rights to use, modify, reproduce, release, perform, display, or disclose these technical data and/or computer data bases and/or computer software and/or computer software documentation are subject to the limited rights restrictions of DFARS 252.227-7015(b)(2) (November 1995) and/or subject to the restrictions of DFARS 227.7202-1(a) (June 1995) and DFARS 227.7202-3(a) (June 1995), as applicable for U.S. Department of Defense procurements and the limited rights restrictions of FAR 52.227-14 (June 1987) and/or subject to the restricted rights provisions of FAR 52.227-14 (June 1987) and FAR 52.227-19 (June 1987), as applicable, and any applicable agency FAR Supplements, for non-Department of Defense Federal procurements.*

x.   <u>Other Third Party Products</u>. Client agrees that at any time, HSMS may substitute third party products which are incorporated, accessed, or otherwise contained in the Software with other similar third party products.

12. <u>MISCELLANEOUS.</u>

A.   <u>Compliance with Laws</u>. Client shall be responsible for (i) compliance with all applicable laws and governmental rules and regulations relating to its business, including HIPAA and (ii) any use it may make of the HSMS Property to assist it in complying with such laws, rules and regulations. HSMS shall not have any responsibility relating thereto including advising Client of Client's responsibility in complying with any such laws, rules or regulations. If, after the Effective Date, any modifications to the Software shall be required by applicable law or order of a court or other tribunal of competent jurisdiction, HSMS shall, except to the extent such modifications may be beyond the capability of HSMS to implement, modify the Software in accordance with such requirements; to the extent permitted by applicable law or order, HSMS reserves the right to assess fees for such modifications. If, providing the Software or any portion thereof to Client hereunder violates, or in HSMS's judgment is likely to violate, any applicable laws or governmental rules or regulations, HSMS may, upon written notice to Client, immediately terminate this Agreement and the license and all other rights granted to Client hereunder without further liability to Client.

B.   <u>Entire Agreement; Amendments; No Waiver</u>. This Agreement, including Schedule A attached hereto and incorporated herein by reference in its entirety, constitutes the entire agreement between the parties with respect to the subject matter hereof. All prior or contemporaneous agreements, proposals, understandings and communications between or involving the parties, whether oral or written, are superseded by this Agreement. The terms contained in this Agreement shall supersede any conflicting terms contained in any purchase order, invoice or other document used or submitted by either party in connection with the license of the Software covered by this Agreement. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties. Notwithstanding the foregoing, HSMS may, from time to time, give Client written notice of amendment to this Agreement to comply with regulatory changes or contractual obligations imposed upon it by third parties; such notice may be by electronic mail, website postings or otherwise. Any such amendment will automatically become effective as specified in the notice unless, within 30 days after receiving the notice, Client responds by giving HSMS notice of termination of this Agreement. No express or implied waiver by either party of any event of default hereunder shall in any way be, or be construed as, a waiver of any subsequent event of default.

C.   <u>Assignment</u>. Neither this Agreement nor any of Client's rights, duties or obligations hereunder may be assigned or delegated by Client, in whole or in part, without the prior written consent of HSMS. Any attempted assignment or delegation by Client in contravention of the provisions of this Section 12.C shall be void and without force or effect. Except as otherwise provided herein, this Agreement shall be binding upon and shall inure to the benefit of the respective successors and permitted assigns of the parties.

D.   <u>Severability</u>. If any provision (or any portion thereof) of this Agreement is held to be invalid, illegal or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid, illegal or unenforceable provision.

E.   <u>Headings</u>. The headings in this Agreement are intended for convenience of reference and shall not affect its interpretation.

F.   <u>Due Authorization</u>. Each party represents and warrants that it has full power and authority to enter into this Agreement and that this Agreement has been signed by its duly authorized representative.

G.   <u>Notices</u>. Except as otherwise provided herein, including but not limited to amendments to comply with regulatory changes, all notices provided hereunder shall be in writing and shall be forwarded by registered or certified mail and sent to HSMS or Client, as applicable, at the addresses set forth on the first page of this Agreement or to such other address as such party last provided to the other party in accordance with the provisions of this Section 11.G.

H.   Remedies. Breach by Client of any term or condition of Section 5 will cause HSMS irreparable injury and damage and therefore HSMS shall be entitled to seek injunctive relief, without the need to post bond or other security, as necessary to enjoin such breach in addition to any other rights or remedies which may be available to HSMS or its authorized agent at law, in equity or otherwise.

I.   Independent Contractor. Notwithstanding any provision in this Agreement, for all purposes of this Agreement, HSMS and Client are and shall be independent contractors and shall not be a partner, joint venturer or agent of the other, and shall not bind or attempt to bind the other party to any contract or other obligation.

J.   Governing Law. This Agreement shall be governed by the laws of the State of Ohio, without reference to conflict of laws principles.

HENRY SCHEIN MEDICAL SYSTEMS, INC. RESERVES THE RIGHT TO REVOKE ITS ACCEPTANCE OF THIS AGREEMENT DUE TO ERRORS MADE IN THE HSMS PRICING PROPOSAL OR ON ANY INVOICE.

SCHEDULE A

1. **SOFTWARE.** **"**Software" licensed hereunder shall include the applicable **MICROMD SUITE OF SOFTWARE PROGRAMS** as identified in the accepted proposal (version as identified in accepted proposal or current as of date of such acceptance) which may include

   PM (MICROMD PM): Current version
   ELECTRONIC MEDICAL RECORDS (MICROMD EMR): Current Version
   ERX (MICROMD ERX): Current Version

2. **SITE.** Client shall use the Software in connection with the license granted under this Agreement only for the benefit of the physical address listed on the accepted proposal (and outlined in the Client Enrollment Agreement).

SCHEDULE B

The following guidelines (the "Guidelines") are the responsibilities of the Certified Reseller to the Client. These Guidelines apply only if the Client enters into a sales and/or services agreement for the Software with an HSMS Certified Reseller.

1. **Installation, Configuration, Implementation and Training:** The Certified Reseller is responsible for the post-sale installation, configuration, implementation, and training of the software product(s) set forth in Schedule A.

2. **Tier 1 Support Help Desk Function:** Certified Reseller is responsible for telephone service desk for the purposes of triaging and resolving day-to-day Software related questions and troubleshooting.

3. **Upgrades/Updates:** Certified Reseller is responsible for providing all improvement(s), bug fixes, enhancement(s), modification(s), update(s) and upgrade(s) to the System to cause the System to operate under HSMS INC.'s latest version(s) or release(s) and HSMS INC.'s supported operating system(s).

4. **Appropriate Staffing:** Certified Reseller will maintain at all times appropriate staffing, training, and any other requirements to perform (i) installation, configuration, implementation, and training, (ii) Tier 1 Support Help Desk Function, and (iii) and upgrades/updates of the Software.

5. **HSMS Help Desk**: Certified Reseller may involve HSMS help desk support for escalated issues unable to be resolved by the Certified Reseller. HSMS help desk is limited to HSMS products and services; assisting with hardware or networking troubleshooting for third-party purchased equipment or services may involve hourly charges.

6. **HSMS resourced onsite visit(s):** Onsite visits by HSMS can be requested only when no other practical alternative exists to resolve Software support issues provided that: (1) HSMS or Certified Reseller has verified that no hardware malfunction has occurred, and (2) HSMS does not suspect that third party application or data file corruption has interfered with the performance of the Software. In the event of an onsite visit, HSMS reserves the right to assess a per hour charge for labor and reimbursement of expense, including travel and per diem.

7. **Remote System Support:** Client is required to provide a Remote Desktop Portal (RDP), Virtual Private Network (VPN) or a modem at all Client facilities to allow Remote System Support. Remote System Support includes but is not limited to the use of a remote connection to update, upgrade, monitor, and provide support to the Software. Client shall allow Remote System Support at a pre-determined and mutually agreed upon date and time.

8. **Inquiries**: Certified Reseller is responsible for servicing Client with respect to all inquiries, feedback, complaints, concerns or any other related issues.